

**NOTICE OF INTENT TO AMEND A RULE AND TO ADOPT A NEW RULE
AFFECTING CHAPTER 590-7 BY THE CORPORATIONS DIVISION OF THE OFFICE
OF THE GEORGIA SECRETARY OF STATE, COMMISSIONER OF
CORPORATIONS, RULE 590-7-1-.08 *FEES AND PENALTIES. AMENDED* AND RULE
590-7-1-.13 *REFUNDS* AND NOTICE OF PUBLIC HEARING.**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Assistant Commissioner of the Corporations Division of the Office of the Georgia Secretary of State, (hereinafter "Commissioner") proposes to amend a rule for the Division, Rule 590-7-1-.08 *Fees and Penalties. Amended.* and to adopt a new rule 590-7-1-.13 *Refunds.*

This notice, together with exact copies of the proposed rule amendment and the new rule and their respective synopses, are being distributed to all persons who have requested, in writing, that they be placed on a distribution list. A copy of this notice, the exact copies of the proposed rule as amended and the new rule and their respective synopses may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Office of the Secretary of State, Corporations Division, 2 Martin Luther King, Jr. Drive, S.E., 313 West Tower, Atlanta, Georgia 30334. These documents will also be available for review on the Corporation Divisions' web page at <http://www.sos.ga.gov/corporations/>. Copies may also be requested by contacting the Corporations Division at 404-656-2817.

A public hearing is scheduled to begin at 10:00 A.M. on August 1, 2011 at the Office of the Secretary of State, Corporations Division, 2 Martin Luther King, Jr. Drive, S.E., 313 West Tower, Atlanta, Georgia 30334 to provide the public an opportunity to comment upon and provide input into the proposed amendment. At the public hearing anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to 5 minutes per person. Additional comments should be presented in writing. Written comments are welcome. To ensure their consideration, written comments must be received on or before July 25, 2011. Written comments should be addressed to Tanja D. Battle, Assistant Commissioner, Corporations Division, 2 Martin Luther King, Jr. Drive, S.E., 315 West Tower, Atlanta, Georgia 30334. FAX: 404-657-2248.

The proposed rule amendment and rule adoption will be considered for adoption at a meeting scheduled to begin at 10:15 A.M. on August 1, 2011, at the Corporations Division, 2 Martin Luther King, Jr. Drive, S.E., 313 West Tower, Atlanta, Georgia 30334. According to the Department of Law, State of Georgia, the Office of the Secretary of State, Corporations Division has the authority to amend this rule pursuant to authority contained in O.C.G.A. §§ 14-2-130, 14-5-23.

On June 29, 2011, the Assistant Commissioner determined that the formulation and adoption of the rule amendment and the new rule adoption do not impose excessive regulatory cost on any

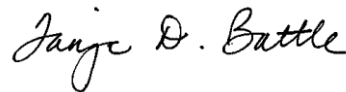
registrant and any cost to comply with them cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 14-2-130, 14-5-23.

On June 29, 2011, the Assistant Commissioner determined that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 14-2-130, 14-5-23 to adopt or implement differing actions for businesses as listed at O.C.G.A. §50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of this rule will impact every registrant in the same manner.

For further information, contact the Division office at 404-656-2817.

This notice is given in compliance with O.C.G.A. §50-13-4.

This 30th day of June, 2011.

A handwritten signature in black ink that reads "Tanja D. Battle". The signature is written in a cursive, flowing style.

Tanja D. Battle
Assistant Commissioner
Corporations Division

Posted: June 30, 2011

**SYNOPSIS OF THE PROPOSED RULE AMENDMENT AFFECTING CHAPTER 590-7
BY THE CORPORATIONS DIVISION OF THE OFFICE OF THE GEORGIA
SECRETARY OF STATE, COMMISSIONER OF CORPORATIONS, RULE 590-7-1-.08
*FEES AND PENALTIES. AMENDED.***

Purpose: The purpose of the amendment to Rule 590-7-1-.08 is to remove the prohibition of refunds for fees and penalties paid to the Commissioner.

Main Features: The amendment no longer impedes the Commissioner's ability to consider justifiable refund requests which have been submitted directly to the Corporations Division for processing and payment.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENTS TO THE CORPORATIONS DIVISION OF THE OFFICE OF THE
GEORGIA SECRETARY OF STATE, CHAPTER 590-7, COMMISSIONER OF
CORPORATIONS, RULE 590-7-1-.08 *FEES AND PENALTIES. AMENDED.***

NOTE: Struck through text is proposed to be deleted. Underlined text is proposed to be added.

590-7-1-.08 Fees and Penalties. Amended.

(1) Every registration, renewal or other filing required pursuant to the Code or any Rule or Regulation promulgated thereunder shall be accompanied by the required fee, penalty fee or funds as required by the Code. All filing fees shall be immediately docketed into the automated database by the staff of the Commissioner. Docketing of the filing fees shall be for accounting and document control only and shall not constitute acceptance of the filing nor shall it imply that the applicant has met the filing requirements of the Code.

(2) No registration, renewal, or other filing required pursuant to the Code or any Rule shall be considered officially received by the Commissioner unless said documents are accompanied by the required fee or funds. Said fee or funds shall be received by the Commissioner or by a person designated by him.

~~(3) All fees and penalties are nonrefundable, unless specifically authorized by the Code and a written request for refund is received from the applicant.~~

(3) ~~(4)~~ All filing fees and penalties assessed pursuant to the Code or the Rules and Regulations promulgated thereunder shall not be deemed to be paid unless payment is made in United States currency, certified funds, or until any check given for such fees or penalties has been paid by the financial institution upon which such check is drawn.

(4) ~~(5)~~ The Commissioner may determine the imposition of any penalty provided for by the Code or the Rules and Regulations promulgated thereunder.

(5) ~~(6)~~ The Commissioner shall publish a comprehensive list of filing fees, minimum service charges, service charges, penalties and other fees collected by the staff. Service charges may only be changed by the posting by the Commissioner of such changes in the public access area of the Division offices for a minimum of thirty (30) days prior to such

changes being effective.

(6) ~~(7)~~ No filing will be accepted by the Secretary of State without the payment of any past due penalties assessed pursuant to the Code or the rules promulgated thereunder.

Authority: O.C.G.A. §§ 14-2-130, 14-5-23.

**SYNOPSIS OF THE PROPOSED RULE ADOPTION AFFECTING CHAPTER 590-7
BY THE CORPORATIONS DIVISION OF THE OFFICE OF THE GEORGIA
SECRETARY OF STATE, COMMISSIONER OF CORPORATIONS, RULE 590-7-1-.13
*REFUNDS.***

Purpose: The purpose of adopting Rule 590-7-1-.13 is to provide the Commissioner the authority to process requests for refunds of certain fees and penalties paid to the Commissioner.

Main Features: The new rule provides the Commissioner the legal justification to consider certain refund requests which have been submitted directly to the Corporations Division for processing and payment.

NOTE: Struck through text is proposed to be deleted. Underlined text is proposed to be added.

590-7-1-.13 Refunds.

(1) Notwithstanding Rule 590-7-1-.01(3), and for purposes of this Rule only, an “applicant” shall mean the party who submits a written request for refund to the Commissioner and is the original payor, the proper legal entity of the original payor, or its legally authorized representative.

(2) An applicant shall be refunded all fees in an amount which has been determined to have been paid in error, less deduction of an amount as otherwise provided in this Rule. Payment of any refund amount shall be made interest free. Each request shall be made in writing and submitted in a manner as required by the Commissioner and shall contain such information as the Commissioner may deem as reasonably necessary, which may include applicant’s name, date of request, applicant’s contact information, reason for refund, original amount paid and signature. All requests for refund must be made by the applicant or an authorized representative. It is the sole responsibility of the applicant to provide all documentation supporting the request for refund.

(3) For request for refund to be valid, it must be complete with all supporting documents and submitted within twenty-four (24) months of the date of the original payment. No request for refund that is incomplete with missing information or supporting documentation or that is made beyond the expiration of twenty-four (24) months following the date of the original payment shall be processed.

(4) All completed refund requests shall be processed by the Commissioner, or his or her delegate, and shall be submitted for review and payment as soon as reasonably possible following receipt of the completed request. Notwithstanding the foregoing, the Commissioner may initiate the refund process in the event that a billing error is discovered in absence of an applicant’s request for refund.

(5) Upon review of the request for refund and supporting documentation, the Commissioner may authorize payment of the requested amount, refund a lesser amount or reject the request if the facts of the matter support such a conclusion.

(6) In the event there is an outstanding balance of unpaid fees owed by the applicant, the Commissioner is authorized to offset any refund amounts as payment for such unpaid fees and any costs.

(7) All refunds must be made payable in the name of the original applicant.

(8) Once a refund is paid to an applicant, the matter shall be considered final and the Commissioner shall not accept any new request for refund relating to the same matter.

Authority: O.C.G.A. §§ 14-2-130, 14-5-23.